



## A2P2 ISSUE BRIEF: THE CASE ACT OF 2019

AUGUST 1, 2019

### ABOUT THE CASE ACT

The Copyright Alternative in Small-Claims Enforcement Act of 2019 (CASE Act) is a bill that was introduced in the House and Senate on May 1, 2019 to create an alternative to federal court for pursuing copyright claims. If passed, the CASE Act would establish a small claims tribunal within the U.S. Copyright Office, called the Copyright Claims Board (CCB), to adjudicate copyright infringement cases and abuse of notice-and-takedown claims under §512(f).

Under the CASE Act, claimants who timely register their works can request up to \$15,000 per work infringed, with a total limit of \$30,000 per proceeding. The CCB can enter a default judgment in favor of the claimant if the alleged infringer fails to opt out of the small claims process or respond within 60 days of receiving notice of the claim.

**Read More:** [CASE Act of 2019](#): Text of H.R. 2426 and S.1273

### WHAT IS THE PURPOSE OF THE CASE ACT?

The high cost and complexity of litigation in federal court keeps many independent authors and creators from enforcing their copyrights. The goal of the bill is to reduce barriers to copyright enforcement, particularly for individual creators with low-value copyright claims, by providing an avenue to remedies that is faster and cheaper than federal court.

**Read More:** [Copyright Small Claims](#): 2013 Report of the Register of Copyrights recommending the creation of a small claims tribunal within the Copyright Office

### WHAT ARE SUPPORTERS SAYING?

Supporters of the CASE Act argue that, due to the high cost of enforcement, current copyright law gives creators rights without effective remedies. They believe that the creation of a new tribunal would ensure that creators have a low-cost way to resolve copyright claims. Supporters contend that safeguards are in place to prevent unintentional default judgments for a failure to opt out, and that any abuse of the tribunal will be mitigated by limits on the number of claims that a person can bring in a year and by penalties for abuse.

**Read More:** [Copyright Alliance Statement](#): Statement supporting the CASE Act of 2019  
[Authors Guild Statement](#): Letter to Senate supporting the CASE Act of 2019

## WHAT ARE THE POTENTIAL PITFALLS?

While critics acknowledge that the CASE Act has a laudable goal, they identify a number of flaws with the current bill. Critics argue that the opt-out process is likely to create a “default judgment mill” where unsophisticated individuals are unwittingly on the hook for high damages. Critics are also concerned that the small claims tribunal would be open to large corporations, corporate assignees, and other entities—not just the independent copyright holders the CASE Act is intended to serve. Critics contend that the CCB’s authority to hear all types of copyright infringement claims—including those that involve highly complex issues and uncertain areas of law—is far too broad, and that limitations on appeal will make it unduly difficult for parties to get meaningful independent review of CCB decisions. Finally, some critics point out that placing some copyright infringement claims in an administrative forum rather than federal court may be unconstitutional under Supreme Court precedent.

**Read More:** [Copyright Law Has a Small Claims Problem. The CASE Act Won’t Solve It](#), Authors Alliance: Blog post discussing some of the flaws in the current bill  
[Scholarly Concerns About a Proposed Copyright Small Claims Tribunal](#), Pamela Samuelson and Kathryn Hashimoto: Law review article outlining scholars’ concerns about a small-claims copyright tribunal  
[Letter Opposing the CASE Act of 2019](#): Letter opposing the CASE Act signed by a range of organizations, including the Association of College and Research Libraries and the Association of Research Libraries

## WHAT’S NEXT?

On July 18, 2019, the Senate Judiciary Committee ordered the bill to be reported to the full Senate where it awaits action. The (identical) House bill has been referred to the House Judiciary Committee on Courts, Intellectual Property, and the Internet for review. As of August 2019, the bill has been co-sponsored by 70 Representatives and Senators.